

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In the Matter of the Application of Orly Genger, to Remove Dalia Genger as Trustee of The Orly Genger 1993 Trust Established on Dec. 13, 1993 by Arie Genger, grantor.

SDNY Case No. 19-cv-09319-AKH

Orly Genger, beneficiary of The Orly Genger 1993 Trust,

Petitioner,

v.

Dalia Genger, as trustee of The Orly Genger 1993 Trust, and The Sagi Genger 1993 Trust,

Respondents.

N.Y. County Surrogate Court
Index No. 2008-0017

In the Petition of DALIA GENGGER, as Trustee of the Orly Genger 1993 Trust Established on Dec. 13, 1993 by Arie Genger, grantor.

SDNY Case No. 19-cv-09365-AKH

Dalia Genger, trustee of the Orly Genger 1993 Trust,

Petitioner,

v.

Orly Genger, Arie Genger, Glenclova Investment Company, TR Investors, LLC, New TR Equity I, LLC, New TR Equity II, LLC, Trans-Resources, Inc., Arnold Broser, David Broser, John Does 1-20, and Jane Does 1-20,

Respondents.

N.Y. County Surrogate Court
Index No. 2008-0017/E

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DATE FILED: <u>2-18-20</u>

**JOINT STIPULATION AND ORDER CONFIRMING REFERRAL
OF REMOVED SURROGATE COURT ACTIONS TO BANKRUPTCY
COURT FOR THE SOUTHERN DISTRICT OF NEW YORK**

WHEREAS, on July 12, 2019 (the "Petition Date"), Orly Genger commenced a case (the "Bankruptcy Case") by filing a voluntary petition for relief under chapter 7 of the United States Code (the "Bankruptcy Code") in the Bankruptcy Court for the Western District of Texas (the "Texas Bankruptcy Court");

WHEREAS, while the Bankruptcy Case was pending in the Texas Bankruptcy Court, counsel for Ron Satija, the prior trustee appointed in the Debtor's Case, pursuant to 28 U.S.C. § 1452 and Bankruptcy Rule 9027, on October 8 and 9, 2019, removed two surrogate court actions that were pending in New York County Surrogate's Court styled as (i) Orly Genger, beneficiary of the Orly Genger 1993 Trust v. Dalia Genger, as trustee of the Orly Genger 1993 Trust, and the Sagi Genger 1993 Trust, Index No. 2008-0017, and (ii) Dalia Genger, as trustee of the Orly Genger 1993 Trust v. Orly Genger, et al., Index No. 2008-0017/E (the "Removed Surrogate Court Actions") to the Southern District of New York, with the further intention of transferring the Removed Surrogate Court Actions to the Texas Bankruptcy Court;

WHEREAS, on November 7 and 8, 2019, Michael Oldner, the Trustee of the Orly Genger 1993 Trust (the "Orly Genger Trust") filed, in this Court, motions to remand (the "Remand Motions") the Removed Surrogate Court Actions back to the Surrogate Court;

WHEREAS, by order dated November 7, 2019, the Texas Bankruptcy Court transferred the Bankruptcy Case to the Bankruptcy Court for the Southern District of New York, whereby Honorable James L. Garrity is now presiding as Bankruptcy Judge in the Bankruptcy Case, Case No. 19-13895 (JLG);

WHEREAS, on December 11, 2019, Deborah J. Piazza was appointed as the successor Chapter 7 trustee in the Bankruptcy Case;

WHEREAS, as contemplated by the Southern District of New York's Amended Standing Order dated February 1, 2012, the parties now desire that the above-captioned matters, including the Remand Motions, be referred to the Bankruptcy Court for further determination by the Bankruptcy Court.

NOW, upon all pleadings and proceedings heretofore had herein, the parties to this Stipulation, by their respective counsel, agree to the following:

1. The Removed Surrogate Court Actions, including the determination of the pending Remand Motions, shall be referred to the Bankruptcy Court for further determination by the Bankruptcy Court.

2. The Orly Genger Trust disputes that the Removed Surrogate Court Actions arise under Title 11 or arise in or are related to a case under Title 11, and reserves all rights concerning the arguments made in its Remand Motions. The Orly Genger Trust's consent to referral of the Removed Surrogate Court Actions to the Bankruptcy Court who will consider the Remand Motions should not be deemed a waiver of any arguments the Trust may have concerning the Bankruptcy Court's lack of jurisdiction over the Removed Surrogate Court Actions.

3. The Trustee shall have until March 31, 2020 to respond to the Remand Motions. The Orly Genger Trust shall have until April 24, 2020 to reply to any responses received to the Remand Motions.

4. Each party that executes this Joint Stipulation represents that he or she is duly authorized to execute this Joint Stipulation on behalf of the respective parties hereto and that each such party has full knowledge and has consented to the terms of this Joint Stipulation.

5. This Joint Stipulation may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument, and it

shall constitute sufficient proof of this Joint Stipulation to present any copy, copies or facsimiles signed by the parties hereto to be charged.

Dated: New York, New York
February 7, 2020

TARTER KRINSKY & DROGIN LLP
*Attorneys for Deborah J. Piazza,
Chapter 7 Trustee*

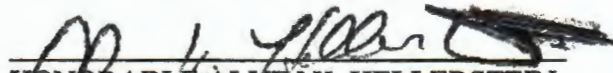
POLLOCK COHEN LLP
*Attorneys for the Orly Genger 1993 Trust,
through Michael Oldner, Trustee*

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SO ORDERED:

Dated: New York, New York
February 18, 2020


HONORABLE ALVIN K. HELLERSTEIN
UNITED STATES DISTRICT JUDGE